Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
A National Broadband Plan for Our Future	)	GN Docket No. 09-51

Respectfully submitted,

New EA, Inc. dba Flow Mobile

/s/ Gregory L. Rohde
Gregory L. Rohde
Director
1915 N Kavaney Dr.
Bismarck, ND 58501
701-255-9500

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EXECUTIVE SUMMARY

New EA, Inc. welcomes the Federal Communications Commission's Notice of Inquiry on developing a National Broadband Plan. Our country is at a crucial juncture with the recent passage of the American Recovery and Reinvestment Act (ARRA), designed to stimulate the economy and provide broadband to all Americans, including individuals living in unserved and underserved areas. Many areas continue to lack adequate access to broadband connectivity, with either no connectivity or limited dial-up service. The Commission has a unique opportunity to assist America in regaining global leadership in broadband. We urge the Commission to immediately act on pending proceedings to free up spectrum for broadband services as an essential component of a national broadband plan.

Access to affordable spectrum continues to inhibit new entry, thereby holding back innovative wireless broadband deployment in the United States. Incumbent concentration and market protection tactics, as well as the Commission's inaction to free up fallow spectrum prevent new entrants from acquiring spectrum and providing innovative, new services to unserved areas. The Commission's recent Report on a Rural Broadband Strategy notes that the Commission has taken numerous steps to bring broadband to rural America. However, the report failed to identify any bold initiatives that would free up fallow spectrum necessary to allow America to catch up with other developed nations. Any National Broadband Plan must include Commission-led efforts to bring spectrum to rural areas and open up the airwaves to new entrants.

We also recommend that the Commission initiate a new auction for the D-Block Public Safety Network as soon as possible. Specifically, we recommend that the Commission require aggressive build out on all licenses, promote dual use, ensure technological neutrality,

give bidding credits, and adopt combinatorial bidding a part of this proceeding. Creating a Nationwide Interoperable Public Safety Network must be at the forefront of any National Broadband Plan.

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COMMENTS OF NEW EA DBA FLOW MOBILE

I. INTRODUCTION

New EA, Inc. dba Flow Mobile ("New EA") responds to the Notice of Inquiry ("NOI") to develop a National Broadband Plan for the United States.[1] New EA is a broadband wireless provider focused on providing 4G wireless services to rural communities.

In light of New EA's business plan, we recognize that the mandate of the American Recovery and Reinvestment Act of 2009 ("ARRA") is that the Federal Communications Commission ("FCC") develop a National Broadband Plan which will help America regain a competitive edge in the Information Age. In recent years, the United States has watched many other nations develop and implement national broadband strategies and consequently move ahead of the United States in terms of broadband access, affordability, and adoption.

The ARRA's $7.2 billion investment in broadband roughly equals the annual investment in existing universal service support. If allocated effectively, the ARRA funds

[1] *In the Matter of a National Broadband Plan for Our Future*, GN Docket No. 09-51, Notice of Inquiry, FCC 09-31, Rel. April 9, 2009 ("NOI").

will help jump start innovative projects that will bring broadband service to areas of the country that otherwise would have to wait years or never occur at all.

As the National Telecommunications and Information Administration ("NTIA") and the Rural Utilities Service ("RUS") distribute the ARRA funds to stimulate broadband deployment and adoption, it is imperative that the FCC proceed aggressively to take actions within its jurisdiction that will help maximize the impact of the ARRA programs. The Commission can do this by taking two essential steps: (1) immediately acting on pending proceedings that would free up spectrum to be used to provide broadband services and (2) expeditiously developing a national broadband plan.

II. THE COMMISSION MUST TAKE ACTIONS ON SPECTRUM MATTERS THAT ADDRESS THE CHALLENGES OF RURAL BROADBAND DEPLOYMENT.

It is difficult to overestimate the importance of wireless to the future of broadband in the United States. At the end of 2007, wireless penetration in the United States reached 86%.[2] As more Americans use wireless services, mobile networks continue to evolve rapidly, providing broadband connectivity and offering video, data and voice applications. With the growing importance of wireless to consumers, businesses, public safety entities, and government operations, the Commission's broadband plan must include a strategy to deploy and expand access to wireless broadband service to all regions of the country that allows for robust access to voice, video and data applications over broadband network speeds in a mobile environment.

[2] *Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services*, WT Docket No. 08-27, Thirteenth Report, DA 09-54, Rel. Jan. 16, 2009 at ¶ 197 ("Thirteenth Report").

In the recently released Rural Broadband Strategy Report, the Commission recounted many of the challenges to additional rural broadband deployment.[3] While the Report was a good first step for the Commission in tackling the rural broadband dilemma, it spent a mere nine paragraphs discussing spectrum access issues and offered only one recommendation — "We recommend the Commission conduct a thorough inventory of the spectrum it has already licensed, examining how, why, and where it is used, and identifying distinct geographic areas where service has not been deployed or where the spectrum is being used inefficiently."[4]

New EA supports the Commission's efforts to conduct a spectrum inventory. But that effort cannot be the Commission's only National Broadband Plan action related to spectrum. While the inventory will assist with the Commission's long range planning on spectrum matters, the agency must also take more immediate steps to address the spectrum needs of rural (as well as urban and suburban) areas. As discussed below, delivering broadband services to rural communities offers a viable business opportunity when certain spectrum-related challenges are overcome.

A. THE COMMISSION MUST IMPLEMENT RULES TO ENABLE NEW ENTRANTS TO OBTAIN AFFORDABLE SPECTRUM.

Chief among these challenges is the ability to obtain affordable spectrum. Access to spectrum is a major barrier to market entry for innovative new providers seeking to serve rural consumers.[5] Too often, incumbents and larger providers dominate spectrum auctions, and

[3] Bringing Rural Broadband to Rural America, Report on Rural Broadband Strategy, FCC, released May 22, 2009 ("Rural Broadband Strategy Report").

[4] *Id.* at ¶ 150.

[5] *See* Gregory Rose and Mark Lloyd "The Failure of FCC Spectrum Auctions" at 7. Available at: *http://www.americanprogress.org/kf/spectrum_auctions_may06.pdf*; see also Gregory Rose "How Incumbents Blocked New Entrants in the AWS-1 Auction: Lessons for the Future" at 3-18. Available at:

new entrants face insurmountable obstacles to compete in auctions to serve rural communities.[6] Previous spectrum auction policy has failed to provide incentives for new entry because of the ineffectiveness of the designated entity program to abide by the successful roots of the spectrum auction program to institute eligibility restrictions.[7] Once licensing occurred, the Commission has typically employed weak build out requirements and lax oversight of spectrum which has allowed too much licensed spectrum to continue to lay fallow in the hands of spectrum speculators and incumbents holding licenses primarily for market protection purposes.[8] In order to promote rural broadband deployment, the National Broadband Plan must address the basic issue of making spectrum available and affordable in rural areas.

B. THE COMMISSION SHOULD IMPLEMENT RULES FOR THE D-BLOCK ALLOWING NEW ENTRANTS TO OBTAIN SCALE.

Another challenge facing the deployment of rural broadband service is lack of scale. Business models designed to serve only a limited number of low-density population areas

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http://www.mediaaccess.org/file_download/180; see also Richard Whitt, "Restoring competitive balance to the upcoming spectrum auction," Google Public Policy Blog, July 23, 2007. Available at: http://googlepublicpolicy.blogspot.com/2007/07/restoring-competitive-balance-to.html (last viewed June 5, 2009).

[6] Simon Wilkie, "Spectrum Auctions are Not a Panacea: Theory and Evidence of Anti-Competitive and Rent-Seeking Behavior in FCC Rulemakings and Auction Design," Center for Communication Law and Policy, University of Southern California, March 26, 2007, at 11-13 ("Wilkie").

[7] *See Implementation of Section 309(j) of The Communications Act—Competitive Bidding*, Fifth Report and Order, 9 FCC Rcd 5532 (1994) (establishing C and F blocks of broadband PCS spectrum as "entrepreneur's blocks" and limiting eligibility for bidding to small businesses, rural telephone companies and businesses owned by women and minorities, collectively referred to as designated entities, in order to ensure that these entities would have "the opportunity to participate in the provision" of PCS, as Congress directed in Section 309(j)(4)(D).

[8] *See*, "Comments of 37 Concerned Economists" in the Matter of Promoting Efficient use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00-230, February 7, 2001, at 6. Available at: http://www.aei-brookings.org/admin/authorpdfs/page.php?id=417 (last viewed June 4, 2009).

have difficulty in attracting sufficient capital to launch a successful new rural service provider. Thus, in many ways, obtaining a license for a very limited rural region of the country is counterproductive because the capital needed to launch new innovative services to rural communities requires that a new entrant obtain spectrum covering large geographic areas. As a result of over-balkanized spectrum assignments, significant amounts of licensed spectrum that was auctioned for small rural licenses remain fallow. To foster more innovation and deployment in rural areas, the Commission should consider a different regulatory approach. New EA supports the Commission instituting rules in the D-Block that would create licensed areas large enough to generate scale. If such larger areas were combined with explicit rural build-out commitments and a new entrant eligibility restriction,[9] the Commission would foster additional competition and new services to rural areas in a financially viable way.

In addition to larger service areas, the Commission must take further actions to address the challenge of delivering affordable broadband services to rural America with the low population density, especially in western states. Establishing a dual use network that would allow public safety users and consumers to utilize the same network makes for a win-win situation for rural states, creating efficiencies and customer scale. A dual use network will allow a financially viable network to be established that would otherwise be uneconomic for the public safety community and would allow the offering of affordable, high quality broadband services to rural consumers. New EA believes that rural communities present the perfect environment for the success of dual use networks. These networks can thrive and not

[9] The new entry restriction is critical because while the Commission's Designated Entity ("DE") program was designed to avoid the excessive concentration of licenses and disseminate licenses among a wide variety of applicants, over time large incumbent wireless carriers increasingly used the program to extend their holdings. A new entrant requirement would avoid such gamesmanship while at the same time effectively addressing the problems associated with the Commission's unrealistic DE program revisions.

only enhance public safety but also provide affordable information and communications services to rural consumers.

III. NEW EA RECOMMENDS THAT THE COMMISSION ADDRESS CONSOLIDATION AND FALLOW SPECTRUM.

In order for the United States to reassert its leadership position for high speed data service, it is imperative that the Commission not only develop an effective broadband plan, but also that the Commission become an enabler of deployment and investment and not a deterrent. Such a turn of events, however, will not happen without intentional determined effort. The FCC must lead the way with initiatives that are specifically targeted to foster competition, consumer choice, investment, and innovation. To that end, New EA recommends that the Commission take the following actions:

A. THE COMMISSION MUST COUNTER MARKETPLACE CONSOLIDATION.

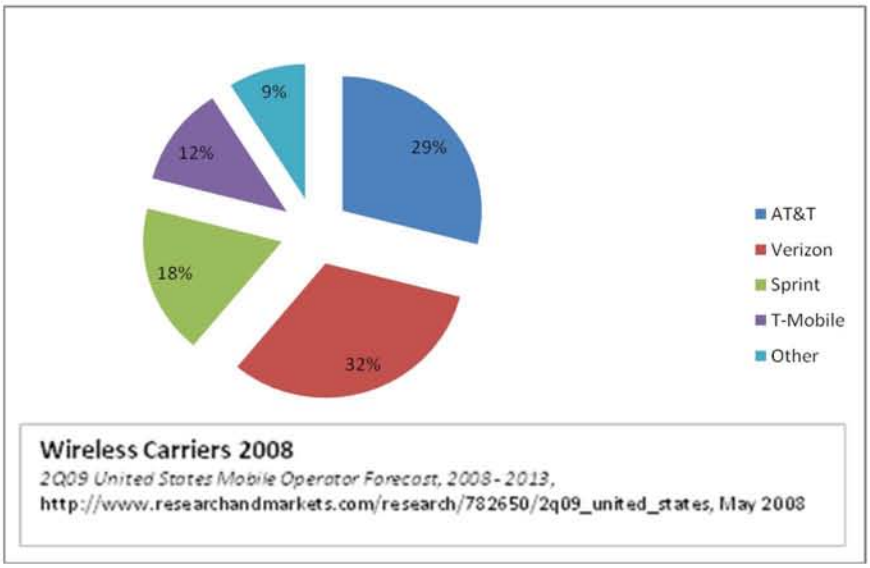
While once the poster child for U.S. telecommunications competition, the wireless industry has grown increasingly consolidated and increasingly antagonistic towards new entrants. In 1996, 79% of consumers were served by a total 18 major carriers.[10] Today, with Verizon's recent acquisition of Alltel Corp., Verizon Wireless is the largest wireless operator in the U.S. with over 30% market share.[11] The top-three wireless providers now cover almost 80% of the market.[12] Free Press even estimates than the incumbent phone companies' market

[10] *Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, FCC 97-75, Second Report, Rel. March 25, 1997 at 5 and Table 2 ("Second Report").

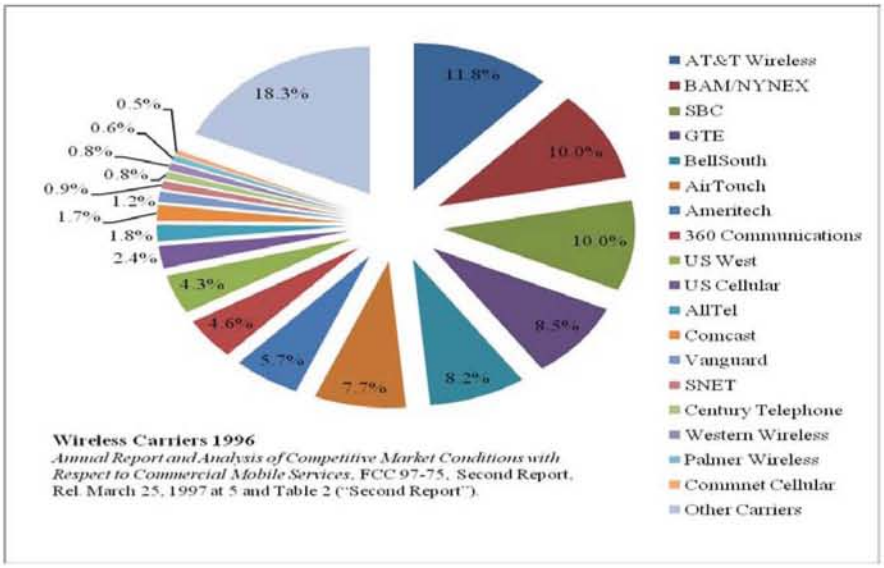
[11] "2009 USA - Telecoms, Wireless, Broadband and Forecasts," Research and Markets, Feb. 2009. ("Research and Markets"). Available at: http://www.researchandmarkets.com/reports/683284/2009_usa_telecoms_wireless_broadband_and_forecasts

[12] *Id*.

share of fixed and mobile residential broadband market increased from 33% in 2005 to 45% in 2008 and by 2008, incumbent phone and cable companies had 95% of the market share for fixed and mobile broadband.[13]



Wireless Carriers 2008
2Q09 United States Mobile Operator Forecast, 2008 - 2013,
http://www.researchandmarkets.com/research/782650/2q09_united_states, May 2008



Wireless Carriers 1996
Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, FCC 97-75, Second Report, Rel. March 25, 1997 at 5 and Table 2 ("Second Report").

The consolidation trend is neither accident nor coincidence; rather, it is largely the result of Commission policy choices. The Commission eliminated the per se limit on the

[13] Derek S. Turner, "Dismantling Digital Deregulation: Toward a National Broadband Strategy," Free Press, May 200, at 48. Available at: http://www.freepress.net/files/Dismantling_Digital_Deregulation.pdf

aggregation of CMRS spectrum in 2003.[14] And since 2000, the FCC has approved 38 mergers (many of which involve mobile carriers and aggregation of PCS spectrum licenses)[15] within an average time of 139 days while not granting any new petitions for new service.[16] The Commission has made merger approvals one of its highest priorities with an internal deadline for action that is often surpassed. Under the National Broadband Plan, the Commission should place at least equal weight and attention to foster new entry and foster innovative service that will enhance competition.

Recent spectrum auctions have only exacerbated the level of concentration in the wireless marketplace.[17] In the 700 MHz auction, Verizon Wireless spent $9.4 billion for the nationwide C block licenses which covers 298 million people and 102 smaller licenses for local markets covering 171 million people.[18] AT&T spent a total of $6.6 billion for 227 B block licenses. In the AWS-1 auction, T-Mobile won the majority of the licenses with 119 provisionally winning bids (PWBs) totaling more than $4.1 billion.

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[14] *2000 Biennial Regulatory Review Spectrum Aggregation Limits for Commercial Mobile Radio Services*, Report and Order, 16 FCC Rcd 22668 (2001) (effective Jan. 1, 2003). Since the caps were removed, there has been significant consolidation of mobile carriers and aggregation of PCS spectrum licenses.

[15] *See Nextel Communications, Inc. and Sprint Corporation for Consent to Transfer Control of Licenses and Authorizations*, Memorandum Opinion and Order, 20 FCC Rcd 13967 (2005); *Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications and Spectrum Manager Lease Action Notifications*, Public Notice (rel. Mar. 2, 2005) (granting license transfer application of NextWave Telecom Inc. and Cellco Partnership d/b/a Verizon Wireless); *Applications for Consent to the Assignment of Licenses from NextWave Personal Communications, Inc., and NextWave Power Partners, Inc., to Subsidiaries of Cingular Wireless LLC*, Memorandum Opinion and Order, 19 FCC Rcd 2570 (2004); *Applications of AT&T Wireless Services, Inc., Transferor, and Cingular Wireless, Corp., Transferee*, Memorandum Opinion and Order, 19 FCC Rcd 21522 (2004); *Applications of Northcoast Communications, LLC and Cellco Partnership d/b/a Verizon Wireless For Consent to Assignment of Licenses*, Memorandum Opinion and Order, 18 FCC Rcd 6490 (2003).

[16] *See* FCC Archived Major Transactions. Available at: http://www.fcc.gov/transaction/archivedtimelines.html (last viewed June 3, 2009).

[17] Wilkie at 18.

[18] Verizon Wireless Statement on the FCC's Announced Results Of Auction 73, Press Release, March 20, 2008. Available at: http://news.vzw.com/news/2008/03/pr2008-03-20c.html (last viewed June 3, 2009).

Changes made by the Commission to the Designated Entity program rules in 2006 have made that program largely unworkable for new entrants.[19] The Commission also imposed severe restrictions on applicants and licensee eligibility for the Designated Entity program. Those rules include eligibility restrictions on applicants and licensees with spectrum leasing or resale agreements of more than 50 percent of their spectrum capacity, making such entities ineligible for designated entity benefits in acquiring licenses in FCC auctions and the secondary market.[20] In commenting on the shocking lack of diversity in the 700 MHz auction, Commissioner Adelstein stated:

> *It's appalling that women and minorities were virtually shut out of this monumental auction. It's an outrage that we've failed to counter the legacy of discrimination that has kept women and minorities from owning their fair share of the spectrum. Here we had an enormous opportunity to open the airwaves to a new generation that reflects the diversity of America, and instead we just made a bad situation even worse."*[21]

The FCC stands at the entrance gate for wireless entry,[22] and it is imperative that the FCC adopt an aggressive approach to encourage new entrants and innovation in the wireless broadband sector. Specifically, the FCC should:

- Revise the DE rules that were intended to provide new entrants an opportunity to participate in spectrum auctions.[23]

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[19] *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, WT Docket No. 05-211, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 06-52, Rel. April 25, 2006 at ¶ 15 ("Designated Entity Order").

[20] *Id.*

[21] Commission Jonathan S. Adelstein Comments on Lack of Diversity Among Winners of the 700 MHz Auction, March 20, 2008. Available at: http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-280973A1.pdf (last viewed June 3, 2009)

[22] Omnibus Budget Reconciliation Act of 1993, Pub.L. 103-66, 107 Stat. 312 (establishing the Federal Communication Commission's jurisdiction to auction spectrum)("OBRA 93").

[23] *Id.*

- Consider limiting participation in future auctions of major spectrum license holders. Having no limit on the amount of spectrum that one entity can own in a given market can lead to an unreasonable concentration.

B. THE COMMISSION SHOULD MAKE FALLOW SPECTRUM PRODUCTIVE.

Since the Commission was first authorized to license spectrum through spectrum auctions, nearly one thousand MHz of spectrum has been licensed for commercial use. Much of this spectrum remains fallow as an undeveloped public asset. This is especially true in many rural areas where access to broadband and broadband competition is very limited. There is no shortage of spectrum. Indeed, a great amount of spectrum is allocated and assigned in rural areas yet not developed.[24] In many cases, spectrum is available; it is simply in the wrong hands. The real spectrum problem is to free spectrum that lays fallow under either FCC control or spectrum speculators and allow investors and innovators willing to serve rural markets gain access to this spectrum.

The reasons for this include lack of affordable capital to build out in low-density population areas, incumbent market protection, and technical limitations of some wireless systems that are designed for more densely populated areas. Regardless of the reasons for the fallow spectrum, the FCC has not adopted any effective procedures to accurately track spectrum use of its licensees or create a catalog of spectrum that could be available for entrepreneurs seeking to enter the wireless market, identifying un-used spectrum.

Consolidation has also helped to keep fallow spectrum lying fallow. Spectrum – even when licensed to a private entity – remains a public asset. It is too valuable of an asset to remain fallow and the FCC, it seems, has an obligation to ensure that licensed spectrum is utilized and not allow private entities to horde spectrum as a market protection strategy.

[24] Rural Broadband Strategy Report at ¶ 143 – ¶ 150.

Specifically, the FCC should conduct a comprehensive review of spectrum within the FCC's jurisdiction that:

- Is lying fallow and being held by the FCC;
- Is licensed but not being used or is under-utilized; and
- Could be re-assigned for broadband service, especially in unserved and underserved areas of the country.

C. THE COMMISSION SHOULD REQUIRE AGGRESSIVE BUILD-OUT ON ALL LICENSES.

Another important aspect of an effective broadband plan for the U.S. is to establish aggressive build-out requirements on spectrum license holders. Spectrum is too valuable of an asset to remain undeployed, and all license holders ought to be pushed by the FCC to develop this asset. Certainly, there are many factors that the FCC must bear in mind when establishing and enforcing build-out requirements including geography and market demographics. But, build out requirements should become a common condition of future spectrum auctions, adjusted for unique circumstances.

D. THE COMMISSION SHOULD PROMOTE DUAL USE OPPORTUNITIES.

The FCC should also embrace the potential benefits of both shared spectrum possibilities and dual use networks. In the 700 MHz Third Further Notice of Proposed Rulemaking, the Commission proposed to auction the 700 MHz D-Block under conditions that would require dual use with public safety. [25] We believe that this is the best approach and

[25] *See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands Implementing a Nationwide, Broadband Interoperable Public Safety Network in the 700 MHz Band*, Third Further Notice of Proposed Rulemaking, WT Docket No. 06-150, PS Docket No. 06-229, released Sept. 25, 2008 ("*Third FNPRM*").

urge the Commission to move forward with this auction as soon as possible. In doing so, we urge the Commission to ensure that its rules and policies serve the public safety needs of rural America and do not unnecessarily hinder potential bidders' participation in the re-auction of the 700 MHz D-Block. New EA supports the Commission's efforts to establish a public-private partnership that will build a nationwide interoperable wireless public safety broadband network ("Network"). The D-Block licensee(s) that will partner with public safety to establish the Network will face unique financial and operational challenges to successfully offer services to public safety and the general public. The Commission must clarify its rules and policies to both assure the delivery of quality service and to enhance the bidders' ability to attract financial backing, which will promote greater participation in the D-Block auction.

The Commission's proposal to create a 20 MHz national broadband network that permits dual use helps to overcome many of the traditional challenges which have inhibited faster deployment of innovative, 4G wireless broadband services in rural areas. New EA welcomes the Commission's approach to dedicate part of the 700 MHz spectrum for dual use and believes that if the Commission adopts the provisions outlined below, public safety and rural consumers in general will be better served.

The success of the Network hinges on two key objectives. First, the Network should cover the greatest population and geographic area possible. Second, the Network ought to be deployed in the shortest period of time. Under the Commission's proposed build out requirements, it could take up to fifteen years to cover 98 percent of the population of the most densely populated Public Safety Regions ("PSRs"), and only 90 or 94 percent of less densely populated PSRs. Even meeting these build out targets will leave millions of square miles, primarily in rural areas, without coverage, possibly indefinitely. It is these very remote

rural areas where communications is most crucial to the public's well-being. Their remote nature, however, likely prevents a carrier from economically constructing a traditional terrestrial network to provide coverage to rural areas.

With sufficient regulatory flexibility, D-Block licensees could construct the Network economically and efficiently to cover quickly even some of the most remote areas of the United States. Therefore, New EA offers the following three proposals to help D-Block licensees achieve these goals, without sacrificing the interests of consumers or the public safety community.

E. THE COMMISSION SHOULD ENSURE TECHNOLOGICAL NEUTRALITY.

The Commission should allow D-Block licensees to use non-terrestrial equipment (in combination with traditional terrestrial technologies) to build out the D-Block spectrum and satisfy their population-based build out requirements. If a D-Block licensee can provide broadband services and still satisfy the Commission's other D-Block service requirements, there is no reason to discriminate against non-terrestrial technologies that may speed the deployment of broadband services. The Commission also should modify any technical rules that may inadvertently prohibit the use of non-terrestrial technologies.[26]

F. THE COMMISSION SHOULD GIVE BIDDING CREDITS WHEN IT AUCTIONS D-BLOCK LICENSES.

New EA supports the application of bidding credits to the D-Block auction. Bidding credits can help offset build-out and other administrative and operational costs associated with

[26] *See, e.g., See* Letter from Gerald Knoblach, Space Data Corporation, to Marlene Dortch, FCC, WT Docket No. 06-150, PS Docket No. 06-229 , Sept. 17, 2008 (suggesting clarifications to the Commission's rules that would facilitate the use of non-terrestrial technologies on the D-Block spectrum).

the Network, particularly in more rural PSRs that will require significantly more financial resources to provide coverage to fewer people in comparison to more densely populated PSRs. The Commission should consider awarding bidding credits to any licensee that commits to: (1) exceed the Commission-mandated population coverage requirements, and/or (2) expedite build out of the Network.[27]

G. THE COMMISSION SHOULD ADOPT COMBINATORIAL BIDDING.

New EA agrees with the Commission that combinatorial bidding – i.e., bidders can group regional licenses and place single bids on that group of licenses – would provide potential bidders greater flexibility to acquire the licenses that best suit their business needs.[28]

The Commission's goals in this proceeding are best served by providing D-Block licensees with maximum flexibility to use non-traditional technologies when constructing and operating the Network. It also is critical that potential bidders have sufficient financial incentives, particularly in light of the current economic crisis, to participate in the D-Block auction. Accordingly, the Commission should ensure that its D-Block rules are technology-neutral and offer bidding credits and combinatorial bidding to participants.

IV. CONCLUSION

The National Broadband Plan must consider making more spectrum available for rural areas and for new entrants. The U.S. cannot compete in the global economy and improve its broadband penetration and adoption rates until new entrants can compete. We encourage the Commission to auction off the D-Block and move forward on creating a Nationwide

[27] *See Id.*

[28] *See Third FNPRM* at ¶ 254.

Broadband Public Safety Network as part of this proceeding to provide a much needed and long overdue interoperable network for first responders.

Respectfully submitted,

New EA, Inc. dba Flow Mobile

/s/*Gregory L. Rohde*

Gregory L. Rohde
Director
1915 N Kavaney Dr.
Bismarck, ND 58501
701-255-9500

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